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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CLAUDIA BLAKE,
Plaintiff,

v.

UNUMPROVIDENT CORPORATION;
UNUM CORPORATION, NEW ENGLAND
LIFE MUTUAL LIFE INSURANCE
COMPANY, THE COMMISSIONER OF
THE CALIFORNIA DEPARTMENT OF
INSURANCE and DOES 1 – 20, inclusive,

Defendants.

Case No.: C 07-4366 EMC (E-FILING)

**DECLARATION OF BENNETT M. COHEN
IN SUPPORT OF PLAINTIFF CLAUDIA
BLAKE'S MOTION FOR REMAND BACK
TO STATE COURT**

DATE : Wednesday, November 14, 2007

TIME : 10:30 A.M.

PLACE: Courtroom C, 15th Floor

**Filed concurrently with Notice of Motion and
Motion for Remand; Motion for Remand]**

TRIAL DATE: NONE SET

I, Bennett M. Cohen, hereby declare:

1. I am one of the attorneys engaged to represent Plaintiff in the instant action. I have personal knowledge of the facts stated herein and, if called to testify I could and would so testify.

1 2. I, along with Mary Martin, secretary for Ray Bourhis, Esq., have attempted to
2 reconstruct the pertinent history of cases filed in the last five years in which the Commissioner of
3 the California Department of Insurance has been named as a defendant.

4 3. Based on the recollection of Ms. Martin as well as what we have been able to
5 discern from documents relative to these cases, it appears that none of these cases ever proceeded
6 to trial against any defendant. The cases either settled or were dismissed by the court. (Please
7 note that there was a case filed more than 5 years ago entitled *Hangarter v. Provident Life &*
8 *Accident Ins. Co.*, 373 F.3d 998 (9th Cir. 2004) -- which did proceed to trial; however, it appears
9 that the Commissioner was not named as a defendant in that case. Please also note that there was
10 a case filed more than 5 years ago entitled *McGregor v. Paul Revere*, C97-2938 PJH (Northern
11 District of California) which did proceed to trial; however, it appears that the Commissioner was
12 not named as a defendant in that case.)

13 I declare under penalty of perjury that the foregoing is true and correct. Executed this
14 24th day of September, 2007, at San Francisco, California.

15
16 
17 BENNETT M. COHEN

PROOF OF SERVICE

Claudia Blake v. Unumprovident Corporation, et al.

U.S. District Court, Northern District of California, Case No. C07-4366 EMC

I am a resident of the State of California, over the age of eighteen years and not a party to this action. My business address is 1050 Battery Street, San Francisco, California 94111. On September 24, 2007, I will serve the following documents:


**DECLARATION OF BENNETT M. COHEN IN SUPPORT OF PLAINTIFF
CLAUDIA BLAKE'S MOTION FOR REMAND BACK TO STATE COURT**

in the manner as provided by Rule 5(b) of the Federal Rules of Civil Procedure by placing a true copy of the document(s) listed above, enclosed in a sealed envelope, addressed as set forth below, for collection and mailing on the date and at the business address shown above following our ordinary business practices. I am readily familiar with this business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid. I am employed in the county where the mailing described below occurred, and am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I placed a true copy of the specified document(s) in a sealed envelope(s) with postage thereon fully prepaid. The envelope(s) will be deposited with the United States Postal Service on this day in the ordinary course of business in San Francisco, California.

**UNUM GROUP (formerly known as
UNUMPROVIDENT CORPORATION) FIRST
UNUM LIFE INSURANCE COMPANY
(erroneously sued as UNUM CORPORATION)
and NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY**

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(X) (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed at San Francisco, California, on September 24, 2007.


Mary M. Martin